

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
EASTERN DIVISION**

UNITED STATES OF AMERICA,)
)
)
PLAINTIFF,)
)
)
V.) CV-09-BE-2423-E
)
)
JAMES J. STRICKER, et al.,)
)
)
DEFENDANTS.)
)
)
)

DEFENDANT MONSANTO COMPANY'S MOTION TO DISMISS

Defendant Monsanto Company (“Monsanto”) moves the Court, pursuant to Fed. R. Civ. P. 12(b)(6), to dismiss the Complaint for failure to state a claim upon which relief can be granted. This motion is based upon the complaint, the exhibits attached hereto, and Monsanto’s brief in support of this motion, which is being filed contemporaneously with this motion. The complaint fails to state a claim and should be dismissed because, under the Federal Claims Collection Act’s three-year limitations period for actions “founded upon a tort,” the government’s claims under the Medicare Secondary Payer Act accrued more than three years ago.

For these reasons, Defendant respectfully requests that the Court grant its motion to dismiss.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of February, 2010, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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